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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,317	03/31/2004	Richard Lum	MS1-1949US	1124
22801 7590 10/02/2009 LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201				
EXAMINER WERT, JOSHUA P				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
10/02/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary

Application No.

10/817,317

Applicant(s)

LUM ET AL.

Examiner

JOSHUA WERT

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 16-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 16-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The examiner acknowledges the amendments to the claims filed 9/23/2009. No new matter has been added in this amendment.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-11, 16-34 and 36-37 are rejected under 35 U.S.C. 102(c) as being anticipated by Gosior et al., US Patent 6,684,062 (Gosior).
3. Regarding claims 1, 6-8, 16-18, 22-26 and 28-34, Gosior discloses a wireless (RF) gaming system and method comprising a host (12/14) that receives game controller data and determines QOS on the received controller data based on data packets, wherein transmission power management at the game controller is based on the QOS of the received game controller data (Col. 10 lines 14-25); and a general-purpose game controller (10) that transmits the game

controller data to the host, receives host data from the host and determines QOS on the received host data based on data packets, wherein reception power management at the game controller is based on the QOS of the received host data (Col. 9, line 50 – Col. 10, line 5).

4. Gosior discloses a number of specific wireless controllers comprising batteries (Col. 2, lines 3-39). Additionally, Gosior discloses that, "the invention also supports controller input/output functions and programming capabilities and interfacing between the controller and an electronic game device with the...characteristics of... low overhead, low cost and low power consumption" (Col. 12, lines 44-53) and adjusting the power levels dynamically (Col. 10, lines 4-5). Adjusting power levels dynamically to effect low power consumption is equivalent to adjusting the magnitude/sensitivity of the transmission power and reception power to conserve the wireless game controller's battery.

5. As interpreted by the examiner, the term "based on" is not an exclusive term. The transmission/reception power management is controlled by an information set that must include QOS information, but may also include any other type of information desired by a designer. Gosior discloses in the abstract that the purpose of the system is to, "achieve significant advantages in the area[s] of ...power consumption." This is achieved by Gosior, in part, by using a received signal strength indicator (RSSI) that initially compares the received power level to a standard as pointed out in page 13 of the response. The RSSI is transmitted in the CRH (controller response to poll header) along with QOS information in what Gosior calls the, "data control and RF link control information" section of the sub-header (Col. 10, lines 14-25). Since Gosior groups the data control information and RF link control information in to one item (examiner notes the 3 pieces of information in the header, data type(1), data address(2) and data

control information and RF link control information (3)) the examiner views the QOS data and RSSI data as one group of control data (QOS associated metrics, with at least one being met to determine that the QOS is acceptable). Col. 10, lines 2-3 state that there are multiple headers, but the following paragraphs define what information is in which header and the RSSI and QOS data are both clearly in the same header and in the same family of data and RF link control information. Therefore, since the power control in Gosior is based on the information from the CRH, and specifically with the data and RF link control information, which contains QOS and RSSI data, the power control is based on the QOS data. Additionally, it is inherent in the reference that irrelevant and non-applicable metrics are ignored in determining if the QOS is acceptable. By definition, something that is irrelevant or non-applicable has no impact on what it is non-applicable or irrelevant to. Therefore, for metrics and items of data that are irrelevant or non-applicable to determining the QOS will not be used to determine the QOS while all information used to determine the QOS is therefore inherently relevant and applicable.

6. Regarding claims 2-5, 19-20, 27, Gosior discloses adjusting the power levels dynamically (Col. 10, lines 4-5) which is equivalent to increasing and decreasing power/sensitivity based on the QOS and other data control information.

7. Regarding claims 9, 11, 21, Gosior discloses the host being a base transceiver and electronic game device that comprises a processor and interface to receive game controller data coupled to the processor (Col. 4, line 42 – Col. 5, line 13) wherein the processor determines if the game controller data has been correctly received (Col. 5, line 43 – Col. 6, line 15; in addition, the host contains an LED that shows status information of the transmission and reception of information, which inherently includes correctness of the transmission).

8. Regarding claims 10, Gosior discloses the game controller having a processor to determine if the host data has been correctly received and an interface to receive host data (Col. 3, line 61 – Col. 4, line 24; the controller contains an LED that shows status information of the transmission and reception of information, which inherently includes correctness of the transmission).
9. Regarding claims 36, 37, Gosior discloses the connection between the game controller and the host being constant during play and continuously dynamically changing the power and sensitivity of the transmission and reception as discussed above. Therefore, Gosior discloses maintaining a link between the Host and the game controller while changing the transmission power and receiver sensitivity.
10. Regarding claim 42, Gosior discloses that there are multiple controllers (Figure 5b) each controller communicating with the system separately (Col. 5, lines 24-59).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 35 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gosior.
13. Regarding claims 35 and 38-39, Gosior substantially discloses the claimed invention except for the power transmission and reception sensitivity being initially set to an upper

threshold. Gosior discloses adjusting the power levels dynamically (Col. 10, lines 4-5) which is equivalent to increasing and decreasing power/sensitivity based on the QOS and other data control information in order to achieve significant advantages in the area of power consumption (abstract). Claims 35, 38 and 39 are directed to a storage medium and gaming system. While Gosior does not explicitly disclose the initial transmission power and reception sensitivity is set to an upper threshold, Gosior does disclose both the structure to accomplish this and describes the result of the disclosed system (low power consumption) being identical to the claimed result. Therefore, while Gosior does not explicitly disclose the initial transmission power and reception sensitivity initially being set to an upper threshold, it would have been obvious to one having ordinary skill in the art at the time the invention was made based off of the disclosure of Gosior to initially set the transmission power and reception sensitivity at an upper threshold to insure initial service and then to dynamically adjust the transmission power and reception sensitivity to a lower level in order to conserve battery power in accordance with the disclosed intended function of the system.

14. Regarding claim 40, as discussed above, Gosior does not disclose the set levels of the transmission and reception power but does disclose that they are adjusted dynamically to result in low power consumption. Therefore, Gosior discloses adjusting the reception and transmission power to a low power level. It would have been obvious to one having ordinary skill in the art at the time the invention was made to dynamically adjust the transmission and reception power to the lowest level in order to maximize power conservation while maintaining a desired QOS.

15. Claims 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gosior in view of Gosior et al., US 2002/0110246 ('246).
16. Gosior substantially discloses the claimed invention except for the game controllers including a voice module and associated voice data. '246 teaches a game controller having a voice module and voice data (12) wirelessly connected to a system with other controllers (Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system disclosed by Gosior by adding voice capability to the game controllers as taught by '246 in order to allow players to speak to others through their controllers.

Response to Arguments

17. Applicant's arguments filed 23 September 2009 have been fully considered but they are not persuasive. The arguments are based on the amendments & have been answered in the rejection above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA WERT whose telephone number is (571)270-1894. The examiner can normally be reached on Monday - Thursday 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

9/29/2009
/J. W./
Examiner, Art Unit 3714

/Corbett Coburn/
Primary Examiner
AU 3714